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Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. PT-2010-4391

MONICA M. LOPEZ
15860 Parkland Drive
Hacienda Heights, CA 91745

ACCUSATION

Psychiatric Technician License No. PT 22482

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing & Psychiatric Technicians.

2. On or about April 19, 1983, the Board of Vocational Nursing and Psychiatric Technicians ("Board") issued Psychiatric Technician License No. PT 22482 to Monica M. Lopez, also known as Monica Maria Vicario, Monica Maria Lopez, and Monica Leggett ("Respondent"). Respondent's Psychiatric Technician License expired on September 30, 2011, and has not been renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Code section 118, subdivision (b) provides, in pertinent part, that the expiration of a
7 license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the
8 period within which the license may be renewed, restored, reissued or reinstated. Under section
9 2892.1 of the Code, the Bureau may renew an expired license at any time within four years after
10 the expiration.

11 5. Code section 490 states in pertinent part:

12 "(a) In addition to any other action that a board is permitted to take against a licensee, a
13 board may suspend or revoke a license on the ground that the licensee has been convicted of a
14 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
15 or profession for which the license was issued.

16 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
17 discipline a licensee for conviction of a crime that is independent of the authority granted under
18 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
19 of the business or profession for which the licensee's license was issued.

20 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
21 conviction following a plea of nolo contendere. Any action that a board is permitted to take
22 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
23 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
24 made suspending the imposition of sentence, irrespective of a subsequent order under the
25 provisions of Section 1203.4 of the Penal Code...."

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1 6. Code section 492 states:

2 “Notwithstanding any other provision of law, successful completion of any diversion
3 program under the Penal Code, or successful completion of an alcohol and drug problem
4 assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of
5 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
6 (commencing with Section 500) of this code, or any initiative act referred to in that division, from
7 taking disciplinary action against a licensee or from denying a license for professional
8 misconduct, notwithstanding that evidence of that misconduct may be recorded in a record
9 pertaining to an arrest. This section shall not be construed to apply to any drug diversion program
10 operated by any agency established under Division 2(commencing with Section 500) of this code,
11 or any initiative act referred to in that division.”

12 7. Code section 4521 states in pertinent part:

13 "The board may suspend or revoke a license issued under this chapter [the Psychiatric
14 Technicians Law (Bus. & Prof Code, 4500, et seq.)] for any of the following reasons:

15 "(a) Unprofessional conduct, which includes but is not limited to any of the following:

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17 “(5) Use any controlled substance as defined in Division 10 (commencing with Section
18 11000) of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or
19 alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any
20 other person, or the public or to the extent that the use impairs his or her ability to conduct with
21 safety to the public the practice authorized by his or her license.

22 “(6) Be convicted of a criminal offense involving the falsification of records concerning
23 prescription, possession, or consumption of any of the substances described in paragraphs (4) and
24 (5), in which event the record of the conviction is conclusive evidence of the conviction. The
25 board may inquire into the circumstances surrounding the commission of the crime in order to fix
26 the degree of discipline.

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1 "(f) Conviction of any offense substantially related to the qualifications, functions, and
2 duties of a psychiatric technician, in which event the record of the conviction shall be conclusive
3 evidence of the conviction. The board may inquire into the circumstances surrounding the
4 commission of the crime in order to fix the degree of discipline...."

5 **REGULATORY PROVISIONS**

6 8. California Code of Regulations, title 16, section 2576.6 states, in pertinent part:

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8 "(b) A licensed psychiatric technician shall adhere to standards of the profession and
9 shall incorporate ethical and behavioral standards of professional practice which include but are
10 not limited to the following:

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12 (4) Abstaining from chemical/substance abuse; and

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14 "(c) A violation of this section constitutes unprofessional conduct for purposes of
15 initiating disciplinary action."

16 9. California Code of Regulations, title 16, section 2578 states, in pertinent part:

17 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
18 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
19 considered to be substantially related to the qualifications, functions or duties of a licensed
20 psychiatric technician if to a substantial degree it evidences present or potential unfitness of a
21 licensed psychiatric technician to perform the functions authorized by his license in a manner
22 consistent with the public health, safety, or welfare."

23 **COST RECOVERY**

24 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
25 law judge to direct a licensee found to have committed a violation or violations of the licensing
26 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
27 case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 11. Respondent is subject to disciplinary action under Code sections 4521, subdivision
4 (f), and 490, in conjunction with California Code of Regulations, title 16, section 2578, in that
5 Respondent was convicted of a crime substantially related to the qualifications, functions, or
6 duties of a psychiatric technician.

7 a. On or about July 15, 2011, after pleading nolo contendere, Respondent was convicted
8 of one felony count of violating Vehicle Code section 23153(B) [driving under the influence
9 causing bodily injury] in the criminal proceedings entitled *The People of the State of California v.*
10 *Monica Maria Lopez* (Super. Ct. San Bernardino County, 2011, No. FWV1101243). The Court
11 sentenced Respondent to prison for three years, stayed, ordered Respondent to serve 365 days jail,
12 placed Respondent on 60 months supervised probation, and ordered Respondent to enroll in and
13 complete counseling program and pay victim restitution.

14 b. The circumstances surrounding the conviction are that on or about May 6, 2011,
15 Respondent was contacted by Ontario Police Department after a traffic accident involving
16 Respondent's vehicle and a pedestrian. While driving with a tested blood alcohol level of
17 0.322/0.308%, Respondent struck a pedestrian and caused injury to the left side of the victim's
18 head and left forearm.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Illegal Use of Drugs/Alcohol Posing Danger to Public & Impair Practice)**

21 12. Respondent is subject to disciplinary action under Code section 4521, subdivision
22 (a)(5), on the grounds of unprofessional conduct, in that on or about May 6, 2011, Respondent,
23 used alcohol to an extent or in a manner dangerous or injurious to herself, any other person, or the
24 public. Complainant refers to, and by this reference incorporates, the allegations set forth above in
25 paragraph 11, inclusive, as though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Failure to Abstain from Chemical/Substance Abuse)**

3 13. Respondent is subject to disciplinary action under Code section 4521, subdivision (a),
4 and California Code of Regulations, title 16, section 2576.6, subdivision (b)(4), on the grounds of
5 unprofessional conduct, in that on or about May 6, 2011, Respondent failed to abstain from using
6 alcohol. Complainant refers to, and by this reference incorporates, the allegations set forth above
7 in paragraphs 11-12, inclusive, as though set forth fully.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Alcohol Related Conviction)**

10 14. Respondent is subject to disciplinary action under Code section 4521, subdivision
11 (a)(6), on the grounds of unprofessional conduct, in that on or about July 15, 2011, Respondent
12 was convicted of a crime involving the consumption of alcohol. Complainant refers to, and by
13 this reference incorporates, the allegations set forth above in paragraphs 11-12, inclusive, as
14 though set forth fully.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 15. Respondent is subject to disciplinary action under Code section 4521, subdivision (a),
18 in that Respondent committed an act of unprofessional conduct. Complainant refers to, and by
19 this reference incorporates, the allegations set forth above in paragraphs 11-13, inclusive, as
20 though set forth fully.

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1 **DISCIPLINE CONSIDERATIONS**

2 16. To determine the degree of discipline, Complainant alleges, as follows:

3 a. On or about September 27, 2010, the Board issued to Respondent a Notice of
4 Warning letter for her 2010 conviction.

5 b. On or about March 11, 2010, after pleading guilty, Respondent was convicted of one
6 misdemeanor count of violating Vehicle Code section 23152(b) [driving with a blood alcohol
7 level of 0.08% or higher] in the criminal proceedings entitled *The People of the State of*
8 *California v. Monica Maria Lopez* (Super. Ct. Los Angeles County, 2010, No. 0JB018873). The
9 Court placed Respondent on three years probation and ordered Respondent to enroll in and
10 complete the First-Offender Alcohol Program.


11 c. The circumstances surrounding the conviction are on or about December 25, 2009,
12 Respondent was contacted by California Highway Patrol, for her erratic driving. Respondent was
13 subsequently arrested for driving under the influence.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board issue a decision:

- 17 1. Revoking or suspending Psychiatric Technician License No. PT 22482, issued to
18 Monica M. Lopez;
19 2. Ordering Monica M. Lopez to pay the Board the reasonable costs of the investigation
20 and enforcement of this case, pursuant to section 125.3; and
21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: **FEB 01 2013**

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24 TERESA BELLO-JONES, J.D., M.S.N., R.N.
25 Executive Officer
26 Board of Vocational Nursing & Psychiatric Technicians
27 State of California
28 Complainant

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